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Sent by email to those listed in Annex A

31 August 2016

Updating our General Approvals for station and depot access agreements

1. We are looking to update our General Approvals. We would welcome your views by 5pm on 14 October 2016.
2. We have issued two sets of consolidated General Approvals to date. We issued our General Approval (Stations) 2010 and General Approval (Depots) 2010 following our consultation on 'a more focused approach to stations and depots access.'¹ We reviewed and reissued these in 2013², and the General Approval (Stations) 2013 and General Approval (Depots) 2013 are the current versions.
3. When we originally produced the General Approvals we said we would monitor their use and effectiveness and would identify potential improvements. The 2013 review built on our experience and that of the industry to clarify issues and to widen the scope of the General Approvals. Since then we have noted other areas which could be potentially improved, which we outline below.

ORR monthly audit of General Approval submissions

4. We audit the use of the General Approvals monthly; we review a random sample of 50% of agreements and amendments submitted under the General Approvals in the previous month. We check for misuse of the General Approvals, and for any other errors or issues.
5. Our audits continue to show that the General Approvals are operating well with no significant issues identified. Incorrect use is rare, invariably the result of an inadvertent error by the submitting party, and is always resolved quickly. On that basis we consider that the concept of "Excluded Party" is no longer necessary and propose to remove references to it in the General Approvals and associated guidance documents.

Review of the General Approvals

6. Given our audit results and in the absence of any negative feedback, we think the General Approvals continue to operate well. However, it has been three years since our last review and we have identified a few areas where the process could be streamlined further.

¹ The original consultation document can be found [here](#), and the consultation conclusions [here](#).

² The 2013 consultation and final conclusions can be found [here](#).



7. We have set out our proposals and thinking below; Annex B relates to stations, Annex C to depots, and in Annex D we suggest changes to the model access agreements.
8. We have also taken the opportunity to update the way the General Approvals have been expressed. We hope the plainer language we propose to use will make them easier to understand. As part of this re-drafting we have not sought to remove any of the approval provisions contained in the current General Approvals.
9. We will implement any changes we decide to make following this consultation as soon as we can (including making any related changes to our guidance and/or model access agreements).

Seeking your views and next steps

10. We are keen to hear your views on the ideas in Annexes B, C and D. Drafts of the revised General Approvals can be found at Annexes E (stations) and F (depots) and we would like to hear whether you consider the plainer language we use makes them easier to understand. As part of this review we have not intentionally removed any of the approval provisions contained in the current General Approvals, but do let us know if you think any of our proposed drafting changes either remove or reduce an existing approval provision or otherwise make the General Approvals difficult to use. Finally, please let us know of any other ways you think the General Approvals could be improved.
11. Please pass this consultation on to colleagues within your organisation if they are better placed to respond.
12. Please send any comments via email to stations.depots@orr.gsi.gov.uk or via post to: Hector Anderson, Executive- Access & Licensing, Office of Rail and Road, London, WC2B 4AN, to reach us by 5pm on 14 October 2016.
13. If you do email your response, we would prefer that you use either Microsoft Word format or OpenDocument Text (.odt) format so that we can apply web standards to content on our website. If you do send us a PDF document, please:
 - create it from the electronic Word file (preferably using Adobe Acrobat), as opposed to an image scan, where possible; and
 - ensure that the PDF's security method is set to no security in the document properties.
14. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.
15. If you want information that you provide to be treated as confidential, be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. Therefore it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but cannot give an assurance that confidentiality can be

maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on ORR.

16. We will process your personal data in accordance with the Data Protection Act (DPA) and in most cases this will mean your personal data will not be disclosed to third parties.

17. If you have any questions regarding any aspects of the review, please contact Hector Anderson on 020 7282 3744.

Yours sincerely

Hector Anderson

Annex A: list of recipients

Abellio Greater Anglia Limited
Abellio ScotRail Limited
Alstom Transport UK Limited
Arriva Rail North Limited
Arriva Trains Wales/Trenau Arriva Cymru Limited
Association of Train Operating Companies
Bombardier Transportation UK Limited
c2c Rail Limited
DB Cargo (UK) Limited
DB Regio Tyne & Wear Limited
Department for Transport
Direct Rail Services Limited
East Coast Main Line Company Limited
East Midlands Trains Limited
First Greater Western Limited
First Transpennine Express Limited
Freightliner Limited
GB Railfreight Limited
Glasgow Prestwick International Airport Limited
Govia Thameslink Railway Limited
Grand Central Railway Company Limited
High Speed One (HS1) Limited
Hitachi Rail Europe Limited
Hull Trains Company Limited
London & Birmingham Railway Company Limited
London & South Eastern Railway Limited
London and North Western Railway Co Ltd
London Overground Rail Operations Limited
London Underground Limited
Merseyrail Electrics (2002) Limited
Merseystravel
Metro
MTR Corporation (Crossrail) Limited
Network Rail Infrastructure Limited
Nexus
North Yorkshire Moors Railway Limited
Passenger Transport Executive Group
Rail Delivery Group
Rail Express Systems Limited

Serco Caledonian Sleepers Limited
South Yorkshire Passenger Transport Executive
Southern Railway Limited
Stagecoach South Western Trains Limited
Stobart Rail Limited
Strathclyde Partnership for Transport
The Chiltern Railway Company Limited
Transport Focus
Transport for Greater Manchester
Transport for London
Transport Scotland
Welsh Government
West Coast Railway Company Limited
West Coast Trains Limited
West Midlands Combined Authority
XC Trains Limited

Annex B: General Approval (Stations) 2013 – proposed changes

1. Bespoke Station Access Conditions (SACs)

1.1 In our 2013 consultation we asked whether it is possible to define ‘Station Access Conditions’ (SACs) in such a way that the General Approval (Stations) could be used to approve agreements and amendments that incorporate alternative or bespoke SACs. The definition of ‘Station Access Conditions’ in the General Approval makes reference to the National SACs 2013 (England & Wales) or (Scotland), and to the Independent SACs 2013 (England & Wales) or (Scotland). As such, approval of any access agreements incorporating alternative or bespoke SACs is not permitted under the General Approval.

1.2 At the time we decided not to alter the definition of ‘Station Access Conditions’ as we were concerned that it might compromise the effectiveness of the General Approval. Since then a number of bespoke or alternative SACs have been introduced and approved by ORR and we have been able to observe how they work in practice. A significant number of non-contentious proposals, which would normally be pre-approved under the General Approval, require our specific approval as the relevant access agreement incorporates alternative or bespoke SACs, which are not covered by the General Approval.

1.3 We propose to amend the definition of ‘Station Access Conditions’ in the General Approval (Stations) so that approval of or amendment to a Station Access Agreement that incorporates alternative or bespoke Access Conditions will be permissible under the terms of the General Approval.

1.4 However, as ORR does not currently set or review the station Long Term Charge (LTC) at stations that incorporate non-standard SACs, we propose to retain regulatory scrutiny of any proposed alterations to the LTC at such stations. This means that the General Approval will not apply and ORR’s specific approval must be sought.

2. **Removal of stations from a Station Access Agreement** – we propose that the removal of stations from an Agreement be permitted in accordance with the General Approval (Stations). Currently, the General Approval allows the addition of one or more new stations to that agreement by identifying that station in Schedule 1 of the agreement or, where applicable, in paragraph 2 of the relevant Station Supplement. We consider that the removal of stations from an Agreement to be non-contentious, as the approval of both parties to such an amendment is required. To ensure that there is clarity and an accurate record of the stations to which an agreement applies, we will require that the submitting party sends an updated Schedule 1 or Station Supplement, with the appropriate station(s) removed, to replace the current Schedule 1 or Station Supplement applicable to that agreement.

Questions:

1. Do you agree with the changes we have proposed in paragraphs 1 and 2 above?
2. If you disagree with any of the proposed changes, please explain why.
3. Addressing our proposed changes in the order we have set them out in paragraphs 1 and 2 above, do you have any comments?
4. Do you have any suggestions for additional changes to the General Approval (Stations) 2013 that you wish us to consider?
5. Are there any other comments you wish to make in relation to the General Approval (Stations) 2013?
6. Do you have any comments on the revised drafting of the proposed General Approval for stations 2016 at Annex E?
7. Do you consider the provisions contained in the General Approval (Stations) to be sufficient to render Station Access Agreements compliant with the law of Scotland and/or to give effect to a concession agreement?
8. Do you agree that we no longer need the concept of Excluded Party?

Annex C: General Approval (Depots) 2013 – proposed changes

1. **Equipment Inventory** – unlike stations, amendments to the Equipment Inventory are not covered by the General Approval (Depots) 2013. We propose that alterations to the description, presence at depot, quantity, responsibility for maintenance or responsibility for repair of depot equipment as set out in Appendix 3 to Annex 1 be permitted under the General Approval (Depots), other than when the alteration of the presence is from 'Yes' to 'No' or the alteration to the quantity is a decrease.
2. **Elements Inventory** – we propose that the addition of items to the Elements Inventory and amendments to the Responsibility for Maintenance and to the Responsibility for Repair be permitted in accordance with the General Approval (Depots). As with stations, we consider such amendments to be non-contentious given the Depot Change consultation process the industry must undertake in accordance with the Depot Access Conditions before any consequential changes to depot access contracts are submitted to ORR for approval.

Questions:

1. Do you agree with the changes we have proposed in paragraphs 1 and 2 above?
2. If you disagree with any of the proposed changes, please explain why.
3. Addressing our proposed changes in the order we have set them out in paragraphs 1 and 2 above, do you have any comments?
4. Do you have any suggestions for additional changes to the General Approval (Depots) 2013 that you wish us to consider?
5. Are there any other comments you wish to make in relation to the General Approval (Depots) 2013?
6. Do you have any comments of the revised drafting of the General Approval for depots 2016 at Annex F?
7. Do you consider the provisions contained in the General Approval (Depots) to be sufficient to render Depot Access Agreements compliant with the law of Scotland and/or to give effect to a concession agreement?
8. Do you agree that we no longer the need the concept of Excluded Party?

Annex D: proposed amendments to our template access agreements

1. **Renaming of the template access agreements** – to ensure consistent use of terminology across our access and licensing functions, we propose to refer to our template access agreements for stations and depots as “model agreements”. Subject to the changes we propose in the rest of this Annex D, the content of the current template agreements will remain the same. They will also continue to be found on the “template documentation” page of our website.
2. **Proposed changes to the termination clauses in the Station Access Agreement (freight operators) and the Station Access Agreement (charter operators)**

2.1 An additional bespoke clause is frequently proposed for inclusion in the “TERM AND TERMINATION” provisions of freight and charter Station Access Agreements (clauses 5 and 6 respectively).

2.2 The intention of this bespoke clause is to provide a degree of protection to the party on which notice has been served by introducing a minimum time limit, in certain circumstances, before termination becomes effective. We have been content to approve agreements that contain this clause where the parties have been in agreement on its inclusion. However, making a bespoke addition to the template freight and charter Station Access Agreements renders the General Approval inapplicable and ORR’s specific approval must be sought.

2.3 We propose to re-order clause 5.1 of the template freight Station Access Agreement and clause 6.1 of the template charter Station Access Agreement and to include the additional wording in italics as follows:

- 5/6.1.1 This Agreement shall continue in force in relation to the Station until the earliest of the following occurs:
- (a) lapse under Clause 2.4;
 - (b) the Expiry Date, as specified in paragraph 3 of Schedule 1;
 - (c) the Station Facility Owner ceasing to be the facility owner in relation to the Station;
 - (d) such date as the Station Facility Owner and Beneficiary may agree;
 - (e) termination under Condition F11 [to be changed to Condition F10, see below] of the Station Access Conditions; or
 - (f) termination under this Clause 5/6, *in which case, notwithstanding Clause 5/6.4.3(c), termination shall not take effect until a minimum of 180 days has elapsed since the Termination Notice was served.*

3. Amendments to each of the template Station Access Agreements to correct a reference to Condition F11 and to Condition 42 – Under clause 5/6, “Term and Termination”, or within the Station Supplement (as applicable) each of the template National Station Access Agreements contains an incorrect reference to Condition F11 of the National Station Access Conditions 2013, and each of the template Independent Station Access Agreements contains an incorrect reference to Condition 42 of the Independent Station Access Conditions 2013. We consider that the templates should refer to Condition F10 and Condition 41 of the relevant Access Conditions respectively; these conditions are concerned with termination by mutual agreement. We propose to amend each of the template Station Access Agreements accordingly to correct this defect.

4. Amendment to clause 6 of the Station Supplement in the template Independent Station Access Agreement (freight operators) – Clause 6 of this agreement incorrectly refers to the National Station Access Conditions 2013. We propose to amend clause 6 to correctly refer to the Independent Station Access Conditions 2013.

5. Proposed addition of a new clause 6.8 to the template Depot Access Agreements

5.1 We have previously been asked to approve Depot Access Agreements that include a bespoke clause to suspend any notice of Termination served under clauses 6.4 or 6.7 in the event that the beneficiary applies to ORR for directions under section 17 of the Railways Act 1993.

5.2 This bespoke clause serves to protect the beneficiary in the event that the Depot Facility Owner serves a termination notice without any Event of Default having occurred, allowing the beneficiary to apply to ORR under section 17 of the Railways Act 1993 for continued access to the depot. Until ORR has made a decision on the section 17 application, the termination notice shall not take effect. However, making a bespoke addition to the template Depot Access Agreements renders the General Approval inapplicable and ORR’s specific approval must be sought.

5.3 We propose to include the following new clause in the template Depot Access Agreements:

6.8 Suspension of Notice of Termination

Any notice of Termination served by the Depot Facility Owner under either clause 6.4 or 6.7 shall not take effect if the Beneficiary has, after the date of service of any notice of termination and before the date of that notice taking effect, applied to the Office of Rail and Road under section 17 of the Act for directions to be given to the Depot Facility Owner to enter into an access contract which provides for the continued access by the Beneficiary’s Fleet Vehicles to the Depot and for so long as that application shall not have been refused.

6. Clause 6.4.1(d) of the template Depot Access Agreement

6.1 Clause 6.4 of the template Depot Access Agreement provides for the Depot Facility Owner to serve a termination notice on the beneficiary. Clauses 6.4.1(a) to (c) relate to

termination as a result of an Event of Default. However, Clause 6.4.1(d) allows the Depot Facility Owner to serve a termination notice where “*the period of 12 months has elapsed from the date upon which a franchise agreement entered into by either the Depot Facility Owner or the Beneficiary becomes effective*”. Sub clause (d) does not appear to be tied to an Event of Default and the reasons for this are unclear. Further, in reviewing the template Depot Access Agreement (non-train operating beneficiary), clause 6.4.1(d) does not appear.

6.2 We wish to seek your views on this provision for termination and in particular, in what circumstances it might be used. This will allow us to determine whether to retain the provision as drafted, to modify it or to delete it.

Questions:

1. Do you agree with the changes we have proposed in paragraphs 1 to 6 above?
2. Addressing our proposed changes in the order we have set them out in paragraphs 1 to 6 above, do you have any comments? In particular, is the 180 day notice period in paragraph 2 appropriate?
3. What is your view on the ability to terminate a Depot Access Agreement after 12 months, as described in paragraph 6? In particular, is it your view that clause 6.4.1(d) is intended to relate to clauses 6.4.1(a) to (c), so that those clauses cannot take effect before a period of 12 months has expired?
4. Do you have any suggestions for additional changes to our template access agreements that you wish us to consider?
5. Are there any other comments you wish to make in relation to our template access agreements?

Annex E: General Approval for stations (2016)

General Approval

for stations (2016)

1. This general approval applies to new and amended station access agreements (SAA) in respect of Franchised, Independent, and Other Stations. The Office of Rail and Road (ORR) makes this general approval under sections 18(1)(c) and 22(3) of the Railways Act 1993 (the Act). This general approval comes into force on xx xx 2016. It replaces the General Approval (Stations) 2013 which is revoked from the same date.

Interpretation

2. In this general approval:

“Franchised Station” means any station in England, Wales or Scotland to which access is granted by a franchisee of the Secretary of State, Scottish Ministers or Welsh Government (as applicable) ;

“Franchised Station Access Agreement” means in relation to a Franchised Station, an agreement entered into after 1 April 1994;

“Independent Station” means any station in England, Wales or Scotland, which is operated by, and to which access is granted by Network Rail Infrastructure Limited (Network Rail);

“Other Station” means any station in England & Wales or Scotland, which is neither a Franchised Station nor an Independent Station;

“Station Access Agreement” (SAA) means an agreement for access to a station made on the same terms as a model SAA published by ORR, and includes the Station Access Conditions (SACs), schedules and Annexes incorporated by reference into that agreement”;

“Station Access Conditions” (SACs) means in relation to:

- (a) a Franchised Station, either:
 - (i) the National Station Access Conditions 2013 (England and Wales); or
 - (ii) the National Station Access Conditions 2013 (Scotland); or
 - (iii) such other Station Access Conditions as are incorporated into the relevant ORR-approved SAA, as applicable; and
- (b) an Independent Station, either:
 - (i) the Independent Station Access Conditions 2013 (England and Wales);or

- (ii) the Independent Station Access Conditions 2013 (Scotland); or
- (iii) such other Station Access Conditions as are incorporated into the relevant ORR-approved SAA, as applicable; and

- (c) an Other Station, such other Station Access Conditions as are incorporated into the relevant ORR-approved SAA

and the annexes relating to that station as each has been or is modified in respect of that station from time to time with the approval of the ORR and as each is incorporated in the SAA relating to that station.

Scope

- 3. ORR gives its approval to the matters set out in paragraphs 4 to 17 below.

New station access agreements

- 4. Parties may enter into a new SAA provided it is made on the same terms as a model SAA published by ORR, subject to the following permitted alterations:

- (a) completion of square brackets, tables or other areas left blank for completion; and
- (b) choosing from various words or phrases,

except where such alteration changes the meaning of any other provision in the SAA, inserts a formula for calculating a figure or inserts an external price list for calculating a cost of providing goods or services.

Existing station access agreements

- 5. Parties to a SAA may make alterations to it as set out in paragraphs 6 to 17 below.

Alterations to Exclusive Station Services

- 6. Parties may alter a SAA to change the Exclusive Station Services listed in Schedule 2 or in Schedule Part 2 of an SAA, as applicable.

Alterations to Freight SAAs

- 7. Parties may alter a Freight SAA or an Independent Freight SAA (and, where applicable, any Station Supplement completed pursuant to that SAA) to change:

- (a) the Core Use set out in paragraph 4 of Schedule 1 (Station Supplement) or in paragraph 4 of Schedule Part 1 (Station Supplement), as applicable;
- (b) the User's Common Charges, the Exclusive Station Services, the Exclusive Charges or the Additional Charges set out in Appendix 1 of Schedule 1 (Station Supplement) or in Appendix Part 1 of the Appendix to Schedule Part 1 (Station Supplement), as applicable;
- (c) the Exclusive Station Services or the specifications for Exclusive Station Services set out in Appendices 2 and 3 of Schedule 1 (Station Supplement) or in Appendix Parts 2 and 3 of the Appendix to Schedule Part 1 (Station Supplement), as applicable;
- (d) the addresses for service set out in Schedule 2 or in Schedule Part 2, as applicable.

Alterations to Common Station Amenities and Services

- 8. Parties may alter the Common Station Services or Amenities as set out in paragraph 9 below, but only where the alteration is the inclusion of an additional facility, service, amenity or item of equipment or if the alteration of the presence at the station is from "No" to "Yes" or the alteration of the quantity is an increase.
- 9. Parties may alter the following terms set out in Annex 1 of the SACs (subject to paragraph 8 above):
 - (a) the Common Station Amenities for all Users and/or for Passenger Operators set out in paragraphs 1 or 2, as applicable
 - (b) the Common Station Services for all Users and/or for Passenger Operators set out in paragraphs 3 or 4, as applicable;
 - (c) the hours set out in paragraph 5;
 - (d) the name set out in paragraph 6;
 - (e) the entry in column 2 ("Included on Plan") as set out in paragraph 6;
 - (f) the default interest rate set out in paragraph 7;
 - (g) the Core Facilities set out in paragraph 8;
 - (h) the location of the station register as set out in paragraph 9;
 - (i) the Station Facilities set out in paragraph 10;
 - (j) the specification for Common Services set out in Appendix 1;
 - (k) the Plan set out in Appendix 2;
 - (l) the statement of Condition set out in Appendix 3;
 - (m) the description, presence at station, quantity, responsibility for maintenance or responsibility for repair of station equipment as set out in Appendix 4;

- (n) the description, responsibility for maintenance or responsibility for repair of station elements as set out in Appendix 5; or
- (o) the Excluded Equipment set out in Appendix 6.

10. Parties may alter the Common Station Amenities and Common Station Services that may be changed only by unanimous agreement of all Users as set out in Annex 3 of the SACs.

11. Parties may alter the amenity/service, period or percentage set out in Annex 6 of the SACs, but only where the alteration is a reduction in the period, an increase in the percentage, or, where an amenity/service is added, the inclusion of a corresponding period or percentage.

Alterations to Agreements and Specifications

12. Parties may alter:

- (a) the Existing Agreements in Annex 5 or Annex Part 5, as applicable;
- (b) the Contract Particulars or the Addresses for Service set out in Schedules 1 and 2 to Annex 8 (Collateral Agreement) or in Schedule Parts 1 and 2 to Annex Part 8 (Collateral Agreement), as applicable;
- (c) the disrepairs to be remedied set out in Annex 10 or in Annex Part 10, as applicable;
- (d) the obligations of the Station Facility Owner set out in paragraph 1, and the times and obligations set out in paragraph 2, of Annex 11 or of Annex Part 11, as applicable; or
- (e) the Repair and Maintenance Specifications set out in Annex 12 or in Annex Part 12, as applicable.

Alterations to Contract Particulars

13. Parties may alter the following Contract Particulars:

- (a) the name or registered office of the Station Facility Owner or the Beneficiary set out in paragraph 1 or 2 of Schedule 1 or of Schedule Part 1, as applicable;
- (b) the expiry date set out in paragraph 4 of Schedule 1, as applicable;
- (c) the name of the station set out in paragraph 5 of Schedule 1, as applicable;

- (d) the Percentage of Common Charges payable pursuant to Clause 6.1 set out in paragraph 9 of Schedule 1 or of Schedule Part 1, as applicable, in conjunction with the deletion of the words “as at the Commencement Date” at the end of Clause 6.1;
- (e) the addresses for service on the parties as set out in paragraph 1 or 2 of Schedule 3 or of Schedule Part 3, as applicable; or
- (f) the addition or removal one or more stations to or from Schedule 1 of the SAA or Appendix 1 to Schedule 1 or in paragraph 2 of the relevant Station Supplement, as appropriate.

Alterations to the Long Term Charge

14. Subject to paragraph 15 below, the parties to a Franchised SAA may alter the amount referred to in the definition of “Long Term Charge” as set out in paragraph 3 of Annex 9 of the agreement and as calculated according to the provisions of Condition F11 of the SACs.
15. An alteration of the kind specified in paragraph 14 above shall only be permitted in accordance with this general approval if:
 - (a) the relevant SACs incorporated into the Franchised SAA are either:
 - (i) the National Station Access Conditions 2013 (England and Wales) with no bespoke conditions; or
 - (ii) the National Station Access Conditions 2013 (Scotland) with no bespoke provisions; and
 - (b) the alteration to the amount of the Long Term Charge results in a new amount which is not greater than the old amount by more than £50,000; and
 - (c) the alteration is due to an enhancement to station amenities or facilities; and
 - (i) Network Rail has funded, or has agreed to fund, all or part of the capital costs of the enhancement to the station amenities or facilities; or
 - (ii) Network Rail has agreed to be responsible for all or part of the maintenance and repair of, or any other operating costs associated with, the enhancement of the station amenities or facilities.

Alterations to a SAA governed by the law of Scotland

16. Parties may alter a SAA to make it compliant with the law of Scotland including:

(a) deleting any governing law clause and replacing it with:

“This Agreement shall be governed by and construed in accordance with the law of Scotland”

(b) deleting any jurisdiction clause and replacing it with:

“Subject to the Station Access Conditions, the parties irrevocably agree that the courts of Scotland are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement”; and

(c) altering the form in which that agreement is to be executed.

Alterations where a party to the SAA is also a party to a concession agreement

17. Parties may alter a SAA to give effect to a concession agreement by:

- (a) inserting any new definitions or altering any existing definitions which define the concession agreement and the parties to the same or define a concession awarding body;
- (b) inserting a new provision or altering any existing provision dealing with events of default to provide that an event of default shall arise under the SAA in connection with termination of the concession agreement;
- (c) inserting a new provision or altering any existing provision dealing with termination notices to provide that a party to the concession agreement shall receive any termination notice relating to termination of the SAA;
- (d) inserting a new provision or altering any existing provision dealing with novation to provide that the SAA shall be novated to a third party where such third party is a party to the concession agreement or is nominated by a party to the concession agreement but only where such novation and the terms of the same shall have been approved by the ORR ;
- (e) altering any rights of third parties clause in a SAA by naming a party to the concession agreement as a third party directly able to enforce such rights as have been granted to it under such SAA;
- (f) inserting a new provision or altering any existing provision dealing with references in the Station Access Conditions to allow for a party to the

- concession agreement to be named alongside the Secretary of State, Scottish Ministers or Welsh Government where applicable; and
- (g) inserting or altering the name and address of a party to the concession agreement in any schedule dealing with contract particulars or addresses for service.

Miscellaneous

18. Section 72(5) of the Act says a copy of all new and amended access contracts must be sent to ORR within 14 days of being made, including those approved under this general approval. Subject to the requirement in section 72(3) of the Act that ORR have regard to the need to exclude certain information, ORR will enter such copies into the public register.
19. Unless the context otherwise requires, terms defined in the Act, the Interpretation Act 1978, model SAAs and model SACs published by ORR shall have the same meaning in this general approval.

ROB PLASKITT
Signed by authority of the ORR

xx xxxx 2016

Annex F: General Approval for Depots (2016)

General Approval for depots (2016)

1. This general approval applies to new and amended depot access agreements (DAA). The Office of Rail and Road (ORR) makes this general approval under sections 18(1)(c) and 22(3) of the Railways Act 1993 (the Act). This general approval comes into force on xx xx 2016. It replaces the General Approval (Depots) 2013 which is revoked from the same date.

Interpretation

2. In this general approval:

“Depot Access Agreement” (DAA) means an agreement for access to a depot made on the same terms as a model DAA published by ORR, and includes the Depot Access Conditions (DACs), schedules and Annexes incorporated by reference into that agreement;

“Depot Access Conditions” (DACs) means the depot access conditions incorporated into and forming part of any DAA, including the Annexes relating to that depot, as each has been or is modified in respect of that depot from time to time with the approval of ORR.

Scope

3. ORR gives its approval to the matters set out in paragraphs 4 to 10 below.

New Depot Access Agreements

4. Parties may enter into a DAA provided it is entered into on the same terms as a model DAA published by ORR, subject to the following permitted alterations:

- (a) completion of square brackets, tables or other areas left blank for completion; and
- (b) choosing from various words and phrases,

except where such alteration changes the meaning of any other provision in the DAA, inserts a formula for calculating a figure or inserts a reference to an external price list for calculating a cost of providing goods or services.

Existing Depot Access Agreements

5. Parties to a DAA may make alterations to it as set out in paragraphs 6 to 10 below.

Factual modifications to Depot Access Agreements

6. Parties may make the following factual modifications to the DAA:

- (a) change information entered into tables;
- (b) insert or alter numbers or monetary figures;
- (c) alter the responsibility for maintenance or repair;
- (d) insert or alter facts, dates, diagrams, plans, maps, routes, performance criteria, descriptions of a service level or specification, charges or amounts to be paid;
- (e) describe a relevant “notifiable condition” in Schedule 18 of the DAA;
- (f) provide registered company names or addresses and related information;
- (g) provide names and addresses for service and related information;
- (h) signify the parties’ acceptance of the terms of the contract, such as inserting signatures;
- (i) insert the words “not used” where appropriate to indicate that a schedule or appendix has not been used;
- (j) insert, substitute or delete a word or words where a choice of alternative words has been provided, provided at least one of the original alternative words remains;
- (k) change the name of the light maintenance depot facility set out at paragraph 4 of Schedule 1; or
- (l) change the name of the light maintenance depot facility in Annex 1 of the DACs.

Alterations to the Equipment Inventory

7. Parties may alter any entry in any of the columns of the Equipment Inventory at Appendix 3 to Annex 1 of the DACs but only where:

- (a) the alteration is the amendment of an entry under the “Present at Depot” column from “No” to “Yes”; or

- (b) where the alteration is an increase to an entry in the “Quantity” column.

Alterations to the Elements Inventory

- 8. Parties may:
 - (a) add additional items to the Elements Inventory at Appendix 4 to Annex 1 of the DACs; and
 - (b) amend entries in the “Responsibility for Maintenance” column and the “Responsibility for Repair” column within the Elements Inventory at Appendix 4 to Annex 1 of the DACs.

Alterations to a DAA governed by the law of Scotland

- 9. Parties may alter a DAA to make it compliant with the law of Scotland including:
 - (a) deleting any governing law clause and replacing it with:

“This Agreement shall be governed by and construed in accordance with the law of Scotland”;
 - (b) deleting any jurisdiction clause and replacing it with:

“Subject to the DACs, the parties irrevocably agree that the courts of Scotland are to have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with, this Agreement”; and
 - (c) altering the form in which that agreement is to be executed.

Alterations where a party to the DAA is also party to a concession agreement

- 10. Parties may alter a DAA to give effect to a concession agreement by:
 - (a) inserting any new definitions or altering any existing definitions which define the concession agreement and the parties to the same or define a concession awarding body;
 - (b) inserting a new provision or altering any existing provision dealing with events of default to provide that an event of default shall arise under the DAA in connection with termination of the concession agreement;
 - (c) inserting a new provision or altering any existing provision dealing with termination notices to provide that a party to the concession agreement

shall receive any termination notice relating to termination of the DAA;

- (d) inserting a new provision or altering any existing provision dealing with novation to provide that the DAA shall be novated to a third party where such third party is a party to the concession agreement or is nominated by a party to the concession agreement but only where such novation and the terms of the same shall have been approved by the ORR;
- (e) altering any rights of third parties clause in a DAA by naming a party to the concession agreement as a third party directly able to enforce such rights as have been granted to it under such DAA;
- (f) inserting a new provision or altering any existing provision dealing with references in the DACs to allow for a party to the concession agreement to be named alongside the Franchising Director and the Strategic Rail Authority, (in each case interpreted as a reference to the Secretary of State, Scottish Ministers or Welsh Government) where applicable; and
- (g) inserting or altering the name and address of a party to the concession agreement in any schedule dealing with contract particulars or addresses for service.

Miscellaneous

11. Section 72(5) of the Act says a copy of all new and amended contracts must be sent to ORR within 14 days of being made, including those approved under this general approval. Subject to the requirement in section 72(3) of the Act that ORR have regard to the need to exclude certain information, ORR will enter such copies into the public register.
12. Unless the context otherwise requires, terms defined in the Act, the Interpretation Act 1978, model DAAs and model DACs published by ORR shall have the same meaning in this general approval.

ROB PLASKITT
Signed by authority of the ORR

xx xxxx 2016